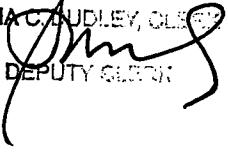


APR 20 2016

JULIA C. AUDLEY, CLERK  
BY:   
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION

JEFFREY E. WHITEBEY, ) CASE NO. 7:16CV00116  
Petitioner, )  
v. ) MEMORANDUM OPINION  
COMMONWEALTH OF VA., ) By: Hon. Glen E. Conrad  
Respondent. ) Chief United States District Judge

Jeffrey E. Whitebey, a Virginia inmate proceeding pro se, submitted a "NOTICE OF DIRECT APPEAL" to this court, complaining that the Supreme Court of Virginia improperly refused his recent appeal to that court, regarding his convictions in Franklin County Circuit Court. After notifying Whitebey, by order entered March 25, 2016, that this court cannot review a state court decision on direct appeal, the court construed and conditionally filed his submission as a petition for a writ of habeas corpus pursuant to 28 U. S. C. § 2254. In that order, the court also granted Whitebey 10 days to advise the court whether or not he objected to the court's stated intention to address his post-conviction motion as a § 2254 petition. See Castro v. United States, 540 U.S. 375, 377 (2003).

The court directed Whitebey to submit to the court within 10 days either (1) his declaration, signed under penalty of perjury, stating his objection to the court's intention to address his submissions as a § 2254 habeas petition or (2) a completed § 2254 petition form, signed under penalty of perjury, providing required information about his state convictions and post-conviction proceedings and setting forth a statement of his claims for habeas relief under § 2254. The court's order expressly advised Whitebey that his failure to comply with one of these conditions would result in the dismissal of the conditionally filed § 2254 action without prejudice. Whitebey did not submit a § 2254 petition form or any document providing a clear

and concise statement of his § 2254 habeas claims. Nor did Whitebey submit any written objection to the court's order as to the construction of his submission as a § 2254 petition, and the time allotted for him to do so has elapsed.

Because Whitebey has failed to comply with the court's order and has failed to submit a completed § 2254 form or to otherwise make a statement of the § 2254 claims he wishes to pursue in this habeas action, the court will summarily dismiss this action without prejudice. An appropriate order will enter this day.

The clerk will send petitioner a copy of this memorandum opinion and the accompanying order.

ENTER: This 20<sup>th</sup> day of April, 2016.

  
\_\_\_\_\_  
Chief United States District Judge